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THE FUMBLE THAT COST TEXAS

by Bob Cunningham

"Texas stands alone in her history preceding admission as a State into the Union. She was not acquired by treaty [nor] by the blood or the treasure of the United States. Texas won her independence by her chivalric courage.... By the wisdom and sagacity of her own statesmen she established her Constitution ... and was recognized by the great powers on earth as an independent authority.

"She put in successful operation and maintained a civil government. By the voluntary action of her own people [and those] of the United States ... she was admitted as a State [in 1845]. The history of Texas [began with] the introduction of the first colony of Anglo-Americans [in late 1821]."[1]

As in this statement by a Texas senator a century ago, Texas can be proud of winning independence from a repressive, Hispanic government and going her own way. Yet many costs of that achievement could have been avoided; a treasonous and little understood "fumble" back in 1806 robbed Texas, and the United States. Like the state of Louisiana, admitted in 1812, Texas might have begun developing as part of the United States earlier. If not more fruitful than Texas building alone, at least it would have started sooner. Anglo history of Texas began well before 1821.

In 1762, Louis XV of France set up the fateful turnover. Through eighty years of exploration and widely accepted mapping, France claimed as "Louisiana" much of today's Canada and the United States. (See map.) In the South that claim ranged north from the Gulf of Mexico and the west-east Rio Grande, also called the Rio Bravo and the Rio del Norte; it ranged near west of present Florida to the north-south Rio Grande. It encompassed today's Texas.

From 200 years of exploration plus colonizing and some administration, Spain also claimed "Texas." But both France and Spain, ruled by Bourbon cousins, tolerated each other's conflicting claims. In fact, through "Family Compacts" of 1733 and 1743, the Catholic cousins made common cause against invasion of their lands in North America by any Protestant nation — practically, England.

Events in the year 1762 tested that blockade. England took much of the Northeast from France. It also captured Havana and Manila, key ports in the Spanish empire. The cousins made their defensive pact world-wide. Still, they arranged a peace conference with England that would take place in Paris in 1763.

France foresaw that England would extort all of France's claims in the New World. So, by the Treaty of Fontainebleau on November 3, 1762, Louis XV ceded to Spain's Charles III all of France's claims south and

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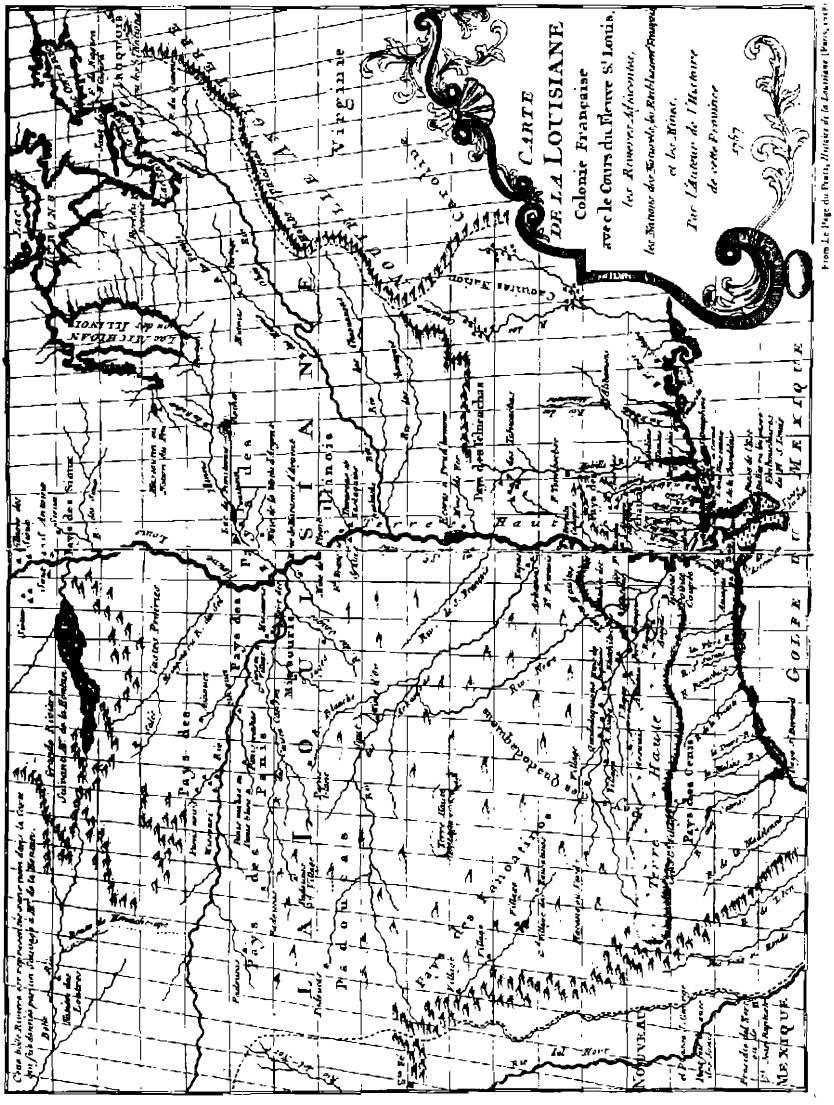

Map from ***Louisiana in French Diplomacy 1759-1804*** *by E. Wilson Lyon. Copyright © 1934, 1974 by the University of Oklahoma Press.*

west of the Great Lakes. The conveyance cited an eastern edge in the South, near east of New Orleans, but pointedly did *not* set a *western* boundary.

That purposeful omission avoided an issue over both parties' overlapping claims to "Texas." France could continue to see that its original claim in the South ranged to the north-south Rio Grande. Spain could continue to see that France's legitimate claim ended some 750 miles further east, at the Red River if not the Mississippi itself. However convenient for the cousins at the time, that mischief would be compounded and would jeopardize Texas' early opportunity.

The next forty years, 1762-1802, boiled with changes affecting "Texas." Spain lost and regained the Deep South east of the Mississippi. Its now doubly recognized "title" to the Lower Mississippi region and the Southwest repeatedly was tested by Americans, English, and resident French. Most of those acts, lacking support by any nation, were blunted without change in Spanish sovereignty.

American squatters and British traders slipped into present Alabama, Arkansas, Louisiana, Mississippi, Missouri, and Texas. From 1768, French "Tories" in the Lower Mississippi area launched insurrections. American Philip Nolan, ostensibly gathering mustangs, spied out and mapped "Texas" as far as the Brazos River before being killed. Georgia established The Bourbon Company to grab and sell land in West Florida. Pierre Vidal — one of many French traders in "Texas" — laid out roadways connecting San Antonio, Santa Fe, and budding St. Louis and improved the *camino real* to Natchitoches, presumably with Spanish approval.

Other actions were official. The United States pushed Spain into the Treaty of San Lorenzo, October 7, 1795. That recognized the 31st parallel, east of the Mississippi, as the boundary between the United States and Spain's West Florida; it also granted Americans use of the Lower Mississippi and the market-port of New Orleans. In 1796, with the aid of Tennessee Provincial Senator Willie Blount, England laid out a full scale invasion from the Gulf. And in 1799, after Spanish authorities again blocked Americans from New Orleans, the United States threatened invasion.

Earlier in the same period, a series of moves were made to detach much of the Ohio and Lower Mississippi rivers' drainage from United States dominance. In 1787, General James Wilkinson "took an oath of allegiance to Spain [for] a trading monopoly in lower Louisiana" and offered to deliver the Ohio/Mississippi basin.[2] In 1788, John Sevier from North Carolina offered to ally the lower Midwest with Spain. Instead of accepting either offer, Spain announced that individual Americans were welcome to settle "as loyal vassals of the king."

Schemes to convey much of our Midwest in the 1780s were not as far-fetched as they would seem today. They were grounded on the fact that Americans there largely depended on trade down the Ohio and Mississippi and back by the same route, plus the overland Natchez Trace that led north to Nashville. From present West Virginia through Illinois and southward, none of the region achieved statehood before 1802 except Kentucky (1792) and Tennessee (1796). And those two, as well as the yet-to-be states, looked more to New Orleans than to the hard-to-reach and commercially cool eastern seaboard.

Under French administration of the Lower Mississippi, traffic with the Midwest grew with the watering waves of settlers. But, after Spain took over, trade repeatedly was blocked and re-admitted only under pressure. In the eyes of many Midwesterners, any alliance that would keep

the New Orleans trade lanes open could be preferred over having to rely on the East.

Without this background, the coming fumble — the conniving negligence that lost Texas — would be hard to understand. Meanwhile, France became a republic and executed its Bourbon king. Outraged, his Spanish cousin declared war but was worn down by Napoleon. Suddenly, by the Treaty of San Ildefonso (October 1, 1800), Spain retroceded to France all of "Louisiana." Again, no western boundary was set.

Pressed by Georgia's insistence on holding land to the west and the Midwest's demand for access to New Orleans, President Thomas Jefferson approached Napoleon. Robert Livingston, Minister to France, was directed to find out whether France could deliver West Florida and might release New Orleans itself.

To the first question, Napoleon was non-committal. Responding to the New Orleans question on September 15, 1801, he countered with a staggering proposal: he would sell *all of "Louisiana!"* However vaguely bounded, that tract would be larger than the planned extent of the whole United States. While awaiting sea-borne instructions, Livingston persisted in trying — even via Joseph Bonaparte in October 1802 — to have West Florida included in a possible transaction.

Negotiations came to a head on April 12, 1803, when James Monroe arrived to aid Livingston. On April 30, officially, the Louisiana Purchase — for approximately $15,000,000 — was framed. The United States ratification came on October 20-21. Two months later, initial administration of the immense package was entrusted to Temporary Governor V.C.C. Claiborne and, since 1796, the ranking officer of the Army, General James Wilkinson.

As to the area involved, the key passage in the ratified "Treaty Between the United States and the French Republic states :

"ARTICLE I Whereas by the Article the Third of the Treaty of San Ildefonso ... 1/Oct/1800 ... it was agreed: 'His Catholic Majesty promises to cede to the French Republic the Colony or Province of Louisiana with the same extent that it now has in the hands of Spain and that it had when France possessed it, and such as it should be after the Treaties entered into between Spain and other States.' "

Without any mention of specific boundaries, this arms-length conveyance continues: "The French Republic has incontestable title to the domain and to the possession of said Territory."[3] Although its ratification was couched in United States Statutes of October 31, and November 10, 1803, "The question of the limits of the [retro-]ceded territory ... was kept in the background."[4]

Why the United States accepted a literally boundless conveyance is hard to understand, except that Washington continued to hope that West

Florida could be included by negotiation. That aim was the main topic of Secretary of State James Madison's lengthy directive to Livingston in Paris dated March 31, 1804. But he did refer to the southern section of the Louisiana Purchase:

"In the delivery of the province by the Spanish authorities to M. Laussat [Colonial Perfect of "Louisiana"] nothing passed denoting its limits either to the east, the west, or the north. [Privately, however, Laussat] stated positively that no part of the Floridas was included in the eastern boundary. With respect to the western extent of Louisiana, M. Laussat held a language more satisfactory. He considered the Rio Bravo, or Del Norte, as far as the 30th degree of north latitude, to be its boundary on that side."[5]

Pierre Clement de Laussat had not been selected because he was imprudent; sources reporting French archives say he was instructed to say just what he said about boundaries. On that basis, in 1804, Jefferson warned Spain to evacuate "Texas." He also ordered Colonel Thomas Freeman to explore the Red River, flowing southeast through present Louisiana, and Thomas Dunbar to probe the Ouachita, a tributary of the Red.

Both expeditions were merely scouting parties; Dunbar's took only three months and Freeman's was turned back by the Spanish force alerted where to find him. By then General Wilkinson had been made governor of Louisiana Territory, the main mass north and west of present Louisiana. For his private purposes, he sent Lieutenant Zebulon Pike to locate the headwaters of both the Arkansas and the Red rivers. At the same time, he again alerted the Spanish authorities. Pike and his dozen men were found in a token fort on the Upper Rio Grande, nor far from Santa Fe, at the most westerly edge of the claim sold by France.

Pike's reception significantly differed from the fate of Nolan seven years earlier. Instead of being killed, he was entertained and escorted back by relays of troops. His journal shows that he found them a caricature of a fighting force. The haughty Spanish officers traveled in luxury; the cavalry was more dashing than militarily effectual; the foot soldiers, woeful peons, were poorly armed and as badly trained.

If General Wilkinson was surprised that Spain backed off from making an issue of Pike's blatant incursion, he might be excused. His even more personal plans and record came in jeopardy, and his future was threatened with disgrace.

Early in the summer of 1805, after ending his vice-presidency, Aaron Burr traveled down the Ohio River recruiting armed support for a secret mission. He called on Wilkinson in St. Louis. Whatever their private talks, "General Wilkinson provided Burr a well appointed barge, ten enlisted men and a sergeant [plus] letters of instruction to Daniel Clark and several Spanish officials in New Orleans. To Clark [former U.S. Consul, denied the governorship, and conspiring against Claiborne] Wilkinson wrote:

'To him [Burr] I refer you for many things improper to letter ... .' "[6]

After three weeks in New Orleans, Burr returned to the East. "He told the French and Spanish ambassadors in Washington that he intended to effect a separation of the [Midwest] .... He told the British minister that New Orleans and West Florida were his objectives. To Wilkinson, Clark and the [insurgent] Mexican Association he had revealed that the invasion of Mexico was his aim."[7]

Wilkinson always covered his tracks. His many transactions with the Spanish were in code; even his name was a numeral. But decoded copies are in Spanish archives and many of his secret activities have been traced. What came to be called "The Burr Conspiracy" has been examined exhaustively by historians. The scholar quoted above is among the few to doubt that Wilkinson himself conceived the plot, that he confided it to Burr in meetings in Philadelphia and Washington, and that Burr simply did more toward carrying it out.

Perhaps to leaven his own conclusions, the same scholar quotes another historian: "To the last Wilkinson continued to pose as an honest man, was protected and honored by Jefferson, was acquitted by a packed court of inquiry, and left as justification for his deeds three ponderous volumes of memoirs as false as any written by man."[8]

We are not concerned with Wilkinson's career. But his perennial connivance with Spain and his role in the Burr Conspiracy help to explain the fumble that cost Texas. In the fall of 1806, the Spanish colonial administration staged a show to stop infiltration from the northeast. Lieutenant-Colonel (also Governor of Nuevo Leon and later General) Simon de Herrera led more than 1,000 soldiers with cannon to Natchitoches in the upper middle of present Louisiana. Rebuked as an invader by officials there, he withdrew to Los Adaes.

Claiborne, by then full governor of New Orleans Territory, called out the militia. Secretary of War Henry Dearborn ordered that three companies of Regulars with two field pieces be sent to bolster Wilkinson's substantial force quartered at St. Louis. He also ordered Wilkinson south to repel the Spanish intruders and to "hold the Sabine River [boundary]."

Wilkinson shortly received an undercover, civilian courier from Philadelphia. The conspiratorial packet included an appalling note from New Jersey Senator Jonathan Dayton. At the coming session of Congress, Wilkinson was to be arraigned and dismissed from his post! Instead of becoming "the George Washington of the West," heading a new nation that would embrace the midwest and much of Mexico, the commanding general of the United States Army would be disgraced!

Any forceful confrontation of Los Adaes could cause the Spanish to expose his twenty years of selling them United States plans. "If Spain revealed his secret dealings ... Wilkinson would be a candidate for a firing squad. Realizing his schemes could no longer be sustained, Wilkinson

extracted himself with brilliance .... He wrote President Jefferson that he was on the trail of a great conspiracy [led by] Aaron Burr .... He personally preferred charges that Burr was out to separate Kentucky and the Louisiana Purchase from the United States."[9]

That explosive charge would at least postpone the Congressional investigation; it would also counter any charge by Burr, who already was in ill repute. Since losing the presidency to Jefferson, the resentful vice-president's actions were increasingly suspect. For forcing Alexander Hamilton into a duel and killing him, Burr was ostracized widely. And, his recent moves to gather a force in the Midwest and New Orleans had not gone unnoticed.

By sacrificing his prime pawn, Wilkinson disarmed the threat to himself that was at once most immediate and, as he was ordered to duty in the West, hardest for him to handle personally in the East. He still could not risk anyone else possibly irritating Herrera. Wilkinson's orders directly from the Secretary of War gave Claiborne's militia an excuse to back off while the general made his way to Los Adaes.

Before leaving St. Louis, he rushed one of his coded reports to the top authority of New Spain: the Viceroy in Mexico City. It was a shocking block against Spanish exposure of their secret alliance. He reported that Burr was leading a force to invest all Mexico! Wilkinson added realistic detail, including a request for funds. He stated that, ordered to meet Herrera's thrust, he could prevent Burr's invasion and confine any issue to the eastern border.

Stalling through protocol with Herrera while anxiously awaiting word from the Viceroy, Wilkinson further protected his rear. To the Secretary of War he sent his official, and demonstratively patriotic, view of the military prospect. "If means and men are furnished, I shall plant our standards on the left bank of the Grand [Rio Grande] River."[10]

That document is notable on three counts. On the Department of War record, it could be expected to show his zeal to any doubters and so slow if not prevent Wilkinson's arraignment. By calling for support that might be difficult for the United States to provide, it could invite orders *not* to advance militarily; such orders would avoid his having to attack and thus would reduce the risk of his Spanish connnection being exposed. And, whatever its degree of sincerity, the letter indicates that the general considered it both welcome in Washington and feasible to take over "Texas."

Perhaps reflecting concern that Mexico was vulnerable, the Viceroy replied to Wilkinson with unusual promptness. He appreciated the warning as he would further good offices while awaiting directions from Madrid. Reassured that Spain wanted to continue their alliance in secret, Wilkinson moved into private talks with Herrera. He outlined the imminent threat to Mexico. Herrera, already impressed by the evident number

of Regulars and the unexpected field guns, must have worried about facing an invasion by a larger force.

Wilkinson suggested that the two military leaders work out a compromise, one that would remove any excuse for invasion of Mexico and permit both the Spanish and the United States forces to retire with honor. The Viceroy's messenger may have brought new orders to Herrera; regardless, he feared that help would not arrive before the expected invaders. Herrera agreed to negotiate.

Whatever Hererra's orders, Wilkinson was not authorized to make any deal, much less to compromise the United States position stretching to the Sabine River. Yet, to serve himself, he did both.

He knew that the United States had proposed to Spain that, pending settlement of the southwestern boundary of the Louisiana Purchase, "Texas" be considered Neutral Ground. The area between the Sabine and the north-south Rio Grande was specified. When Spain demurred, the United States began to organize the territory east of the Sabine.

Now Herrera and Wilkinson agreed that the United States forces would withdraw to the Arroyo Hondo, east of the Sabine. Herrera would withdraw to the west bank of the Sabine and the intervening land would be Neutral Ground. The opposing forces withdrew and the arrangement, although not authorized by the United States, was accepted by both governments.

Consider the opportunity for both Texas and the United States that was missed. The record indicates that Spanish policy, dictated from Madrid, was to contain American intrusions without risking war. Wilkinson's force — nine companies of Regulars plus some 800 volunteers — outweighed Herrera's. The whole Spanish colonial military lacked the support necessary to fight across Texas; American squatters and restive Mexicans there, inviting invasion, would dilute what thin support was available.

Under almost anyone other than Wilkinson, a forceful advance — instead of his give-away — almost certainly would have started a successful campaign. Much of Texas could have been taken before orders could be received from distant Washington. And, with momentum achieved on the honorable quest to collect the southern part of what we had bought from France, it would have been difficult for Washington *not* to extend the move.

Wilkinson escaped his due but his self-serving retreat from Los Adaes indirectly led to a second opportunity to embrace Texas. In 1808, Napoleon deposed the Spanish monarchy. After generations of over-centralized government, the Spanish empire had no leadership. New Spain, excepting the lordly aristocrats, rallied to the *grito!* of a native Mexican priest in 1810. The military could not cope with all of the uprisings.

In evidence of New Spain's weakness, Americans who had settled in

West Florida rebelled and captured Baton Rouge. Governor Claiborne handily annexed the area to his own. Meanwhile, the Neutral Ground had become a haven for outlaws and blocked trade. In 1811, Lieutenant Augustus Magee was directed to clear it out. Doing so, he saw the good prospect of continuing through Texas. When Washington failed to authorize the move, Magee resigned his commission.

One may be reminded of Washington's refusal to let United States troops occupy all of Berlin in World War II — and the resulting problems. True, at the time of the Texas fumble(s), the United States was being drawn into the War of 1812 with England and did not need another. But it also is true that the East-dominated government was more intent on acquiring Gulf Coast land east of New Orleans than acquiring Texas.

Thus, in 1819, two segments of Florida's panhandle were obtained from Spain while Washington would continue to ignore opportunities, and requests, to embrace the Southwest within its Louisiana Purchase.

NOTES

[1]Samuel Bell Maxey, "Texas," *Harper's New Monthly Magazine*, (September, 1893) p. 561.

[2]Hodding Carter, *Doomed Road of Empire*, (New York, 1963), pp. 177-178; and Jack D.L. Holmes, *A Guide to Spanish Louisiana*, (New Orleans, 1970), p. 15.

[3]Charles L. Bexans, ed., *Treaties and Other International Agreements of the United States of America*, (Washington, D.C., 1971), pp. 812-813.

[4]Hunter Miller, ed., *Treaties and Other International Acts of the United States of America*, (Washington, D.C., 1931), p. 507.

[5]*American State Papers, Foreign Relations*, II, pp. 575-578 (No. 02, Fiche 9, C 15, U.S. SERIAL SET).

[6]Charles L. Dufour, *Ten Flags in the Wind*, (New York, 1967), pp. 136-137.

[7]Charles L. Dufour, *Ten Flags in the Wind*, pp. 136-137.

[8]Charles L. Dufour, *Ten Flags in the Wind*, p. 139.

[9]T.R. Rehrenbach, *Lone Star*, (New York, 1968), p. 119.

[10]Hodding Carter, *Doomed Road of Empire*, p. 185.